

strongly inclined to think, that he could not be permitted to set up the lien, as against the creditors of Alexander Harris, even, if the delay had not been so long. The bond of Alexander, as guardian, I presume, was responsible for the money with which he charged himself; and, the subsequent dealings between the parties, and the delay of Mackall to sue on the bond until after the death of Alexander, would, as I think, have furnished grounds upon which the court might have refused to enforce the lien. But, however this may be, I am of opinion, that the claim cannot now be asserted as a lien.

THOS. S. ALEXANDER for Kent.

A. RANDALL for Mackall Harris et al., heirs of Joseph Harris.

ROBERT BENTLEY ET AL. }
 vs. } SEPTEMBER TERM, 1849.
 BENJAMIN SHREVE, JR. ET AL. }

[TRUSTEE'S COMMISSIONS AND DUTIES.]

THE court will allow a reasonable commission to the estate of a deceased trustee, who died before completing his trust. In a case like the present, five *per centum* declared to be a reasonable commission.

Reasonable commissions will be allowed to a trustee created by a deed, though the deed is silent upon the subject of compensation.

The court subjects trustees to a rigorous measure of justice, where their conduct has been at variance with their duty.

Where a trustee does not show what amount of interest he has actually received, he will be charged with the whole amount accruing upon the trust money, to be computed from a reasonable time after the commencement of the trust.

In July, 1843, a trustee received the note of A., in payment, for a purchase of trust property. The note was without security, and became due in September, 1843. The trustee died in the summer of 1846, without having sued upon the note, and a new trustee was appointed, who received the note from the administrators of the old trustee, in January, 1847. In March, 1848, the new trustee instituted proceedings upon the note, and in the fall of 1848, A. was found to be insolvent. **HELD**—that in the absence of proof to the contrary, the court will presume that the loss was occasioned by the negligence of the first trustee, and his administrators will be charged with its amount.